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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,458	12/19/2000	Christopher L. Wong	021756-019600US	8837
51206 7590 08/31/2007 TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER 8TH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER SAINDON, WILLIAM V	
			ART UNIT 3623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/742,458	Applicant(s) WONG ET AL..	
	Examiner William V. Saindon	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 19-22, 25-27, 30, 33, 35, 36, 41-59, 61-65 and 67-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-22, 25-27, 30, 33, 35, 36, 41-59, 61-65 and 67-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 22, 2007 has been entered. Claims 19, 41, 63, and 70 have been amended. Therefore, claims 19-22, 25-27, 30, 33, 35-36, 41-59, 61-65, and 67-70 are pending.

### ***Response to Amendment***

2. Applicant's amendments to claims 19, 41, 63, and 70 are acknowledged.

### ***Response to Arguments***

3. Applicant makes the following arguments in the amendment filed 6/22/2007 (hereinafter *Amendment*):

I. *Knudson* does not disclose "collecting performance review information for the hired contractor..., new skill level information..., new skills obtained..., and/or updated experience information...." *Amendment* at 15-16.

II. *Knudson* does not disclose "automatically updating a digital portfolio for the contractor." *Amendment* at 16.

III. There is no motivation to combine *Knudson* and *Joao*. *Amendment* at 16.

Each argument will be addressed below:

Arguments **I and II** are moot in view of the updated grounds of rejection due to the newly added limitations. Please refer to the prior art rejection below.

As to argument **III**, the Examiner respectfully disagrees. *Knudson* discloses work journal information such as hours worked by the worker to specific project tasks. See col. 6, lines 55-67. The information provided in *Knudson* would allow a user of *Joao* to have additional information when searching/filtering potential contractors. Specifically, the information would allow information regarding actual work performance. This would allow *Joao* to have a more comprehensive and accurate search feature.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 19-22, 25-27, 30, 33, 35-36, 41-59, 61-65, and 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Joao* (US 6,662,194), in view of *Knudson et al.* (US 5,765,140) (hereinafter *Knudson*) and *Donnelly et al.* (US 6,049,776) (hereinafter *Donnelly*).

As per claim **19**, *Joao* discloses a system for workforce procurement and management using a hosted network application, comprising:

at least one web server operable to host applications (col. 3, lines 60-67; col. 12, lines 9-19 and 27-31 ; Figure 1);

at least one database in communication with the web server and operable to store data for applications hosted on the web server (Figure 2, noting the database);  
and

a workforce procurement and management application hosted on the at least one web server and operable to store data using the at least one database, the workforce procurement and management application including a plurality of modules accessible at varying levels to different participants in a hosted workforce procurement and management process (col. 4, lines 8-12; col. 5, lines 53-64; col. 14, lines 28-45; col. 15, lines 47-62; Figure 2; The system contains a database for maintaining contractor and employer information. Access to the information maintained in the database is limited by authorization.), the modules including:

a skills fulfillment module providing a requirement function for specifying a staffing requirement for a project (col. 25, lines 25-31; Employers use the system to enter project requirements including hiring requirements.) and a settlement function for

tracking expenditures on the project (col. 34, lines 33-46; The system maintains financial accounts for tracking payments (i.e., expenses) to individuals for work performed on projects.);

an exchange module comprising a search function for matching a digital portfolio of a contractor to the staffing requirement for the project, wherein the contractor is made available to be hired for the project (col. 20, lines 53-63; Hiring entities use the system to search for contractors to fill positions for projects.); and

a knowledge management module comprising a reporting function and an analysis function (col. 22, lines 42-53; col. 25, line 66-col. 26, line 10; The system provides reports to both, contractors seeking jobs, as well as employers seeking contractors.).

But *Joao* does not expressly disclose a resource management module comprising a work journal function for collecting information about work performed on the project by the hired contractor and automatically updating the digital portfolio of the hired contractor such that the search function of the exchange module has access to current portfolio data for the contractor, the collected information including at least one of performance review information for the hired contractor for the work performed on the project, new skill level information for the hired contractor obtained on the project, new skills obtained by the hired contractor on the project, and updated experience information for the hired contractor as a result of the work performed on the project, such that the digital portfolio data for the hired contractor remains current with skill, experience, and review information for the hired contractor.

However, *Knudson* discloses a resource management module comprising a work journal function for collecting information about work performed on the project by the hired contractor and automatically updating the digital portfolio of the contractor such that the search function of the exchange module has access to current portfolio data for the contractor (col. 6, lines 10-14, 48-51 and 62-67; col. 7, lines 30-47; col. 9, lines 30-31; An assignments table is used to maintain assigned tasks for users including the description of the task and the identity of the user responsible for completing the task. Additionally, users update the assignments table through their timesheets, in which they enter the expended time for each of their assigned tasks. The task information entered by users includes performance information relating to actual versus planned work progress and the time information is automatically fed back to the project management tool and the assignments table maintained in the master database, where the project management tool is used to assign resources/workers to projects and tasks (col. 4, lines 55-59; col. 5, lines 44-53).).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify *Joao* to utilize a work journal function as disclosed in *Knudson* because the information maintained in the work journal function would provide employers with additional criteria with which to search for/filter through potential contractors, where the additional criteria provides employers with information relating to the contractors work experience, performance and skills, thereby enhancing the comprehensiveness and accuracy of the search feature provided to employers seeking contractors for project assignments.

Furthermore, *Donnelly* discloses a resource management module comprising a work journal function for collecting information about work performed on the project by the hired contractor and automatically updating the digital portfolio of the contractor such that the search function of the exchange module has access to current portfolio data for the contractor, the collected information including new skills obtained by the contractor (col. 23, lines 63 *et seq.*, noting that the new skills are added to the employee portfolio, which is automatically reflected in the database holding such information).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify *Joao* to utilize a work journal function as disclosed in *Donnelly* because the information maintained in the work journal function would provide employers with additional criteria with which to search for/filter through potential contractors, where the additional criteria provides employers with information relating to the contractors work experience, performance and skills, thereby enhancing the comprehensiveness and accuracy of the search feature provided to employers seeking contractors for project assignments.

As per claim **20**, *Joao* discloses the system of claim 19, wherein the exchange module further comprises: a sourcing function for specifying sourcing preference and rules for a project and a transaction management function for managing a hiring process including sourcing, interviewing, and negotiation (col. 24, lines 37-49; col. 25, lines 24-30; col. 39, line 61-col. 40, line 3; Employers indicate their requirements for projects as well as the hiring process.).



As per claim **21**, *Joao* discloses the system of claim 19, wherein the skills fulfillment module further comprises:

a request for proposal (RFP) function for entering an RFP (col. 24, lines 37-49; col. 32, lines 30-38; The system allows contractors and employers to submit offers and counteroffers to each other as well as have bidding for projects.);

a work order function for documenting terms and conditions of a project and a purchase order function for generating a purchase order in response to an approved work order (col. 33, line 53-col. 34, line 11; The system maintains project-specific information such as project requirements, hirings and schedules. The system also maintains financial information associated with payment of contractors for work on a project. Thus, a work order can include a requirement to hire a contractor and the purchase order can include the offering of a job to a contractor.);

a logistics management function for facilitating the logistical components of a hiring process including management of blood testing, badging, and facilities (col. 24, lines 34-49; The system allows for the management of employee screening and hiring processes.);

a fulfillment management function for managing the fulfillment of sourcing requirements, including maintaining a status of sourcing requirements (col. 24, lines 37-49; col. 25, lines 24-30; col. 39, lines 33-39; col. 39, line 61-col. 40, line 3; Employers indicate their requirements for projects as well as the hiring process. The system maintains status information as to whether a deal has been reached between a contractor and an employer.);

a risk management function for facilitating the pre-qualification of a contractor and a consultant and for monitoring compliance with government rules and regulations (col. 24, lines 34-49; col. 25, lines 25-31; col. 40, lines 59-65; Employers enter requirements of contractors for certain projects. Potential contractors are screened to ensure they meet those requirements before they are hired.).

As per claim **22**, *Joao* discloses the system of claim 19, wherein the resource management module further comprises tracking expenses (col. 34, lines 33-46; The system maintains financial accounts for tracking payments (i.e., expenses) to individuals for work performed on projects.). *Joao* also discloses creating reports on contractor and employer data, which is stored in the database(s) (col. 22, lines 42-53; col. 25, line 66-col. 26, line 10; The system provides reports to both, contractors seeking jobs, as well as employers seeking contractors.). However, *Joao* does not expressly disclose an expense reporting function. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of *Joao* to report on the expenses that are tracked in the database(s) since *Joao* already has the ability to report on data stored in the database(s), and further, an expense report would enable employers to easily and efficiently view expense data for each project, thus enhancing the overall management of projects.

As per claim **25**, *Joao* discloses the system of claim 19, wherein the staffing requirement includes a list of Staffing suppliers, and a list of skills, and wherein the staffing requirement is generated by the analysis function (col. 25, lines 25-31; col. 25,

line 66-col. 26, line 10; The system provides reports to employers seeking contractors based on the employers' staffing requirements, including skills.).

As per claim **26**, *Joao* discloses the method and system of claim 19, wherein the different participants include a contractor who is an individual contingent worker, a client who is an employee of an enterprise, a recruiter who sells a service of finding contingent workers, and a staffing supplier who sells a service of finding contingent workers, including finding multiple contingent workers to staff a project (col. 11, lines 45-67), wherein the different participants have varying levels of access to the hosted network application based upon attributes, wherein attributes include personal attributes associated with a participant, and enterprise attributes associated with an enterprise using the hosted network application (col. 15, lines 1-22; The database contains personal information about the users of the system. Access to the information may be restricted to certain users.).

As per claim **27**, *Joao* does not expressly disclose the system of claim 19, wherein the work journal function comprises: receiving data into a work journal data entity, wherein the entered data comprises, hours worked by the hired contractor, type of work done by the hired contractor and comments regarding work done by the hired contractor; and receiving an approval of the work journal data entity. Knudson et al. discloses the work journal function comprises: receiving data into a work journal data entity, wherein the entered data comprises, hours worked by the hired contractor, type of work done by the hired contractor and comments regarding work done by the hired contractor; and receiving an approval of the work journal data entity (col. 6, lines 48-51

and 62-67; col. 7, lines 18-25; Users enter the expended time for each of their assigned tasks as well as comments. Approving managers-approve the time sheet data entered by the users.). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of *Joao* to have a contractor essentially use a time sheet that tracks hours worked and type of work done and have the time sheet data approved as disclosed by *Knudson* because doing so ensures that contractors are working the hours they say they are working, which helps to keep an accurate schedule of work performed, which, in turn, assists employers in their search for contractors, as in the system of *Joao*, employers use contractors' schedules and experience information as search criteria to match potential contractors with particular projects.

As per claim **30**, *Joao* discloses the system of claim 21, wherein the work order function comprises; generating a work order based upon a successful search for a contractor, reviewing the work order at least one level in order to determine whether to approve the work order, if the work order is not approved, returning the work order to a level below the level at which it was not approved and collecting data regarding the work order, approval, and failure to approve in the database, wherein the knowledge management module accesses the collected data (col. 16, lines 33-50; The database contains information about the contractors who have been approved in advance to work for a specific employer as well as information about the contractors who have not been approved in advance to work for a specific employer.).

As per claim **33**, *Joao* discloses the system of claim 21, wherein the request for proposal function comprises receiving a request for proposal including a list of required

contingent workers and their associated skills, linking the request for proposal with a project specification that includes data regarding a project to be staffed, generating a search based upon the request for proposal and the project specification, wherein the search uses the exchange module, broadcasting at least part of the request for proposal to publicly accessible applications, receiving responses to the request for proposal, conducting bargaining based upon responses to the request for proposal including auctions and reverse auctions (col. 24, lines 37-49; col. 32, lines 30-38 and 47-65; The system allows contractors and employers to submit offers and counteroffers to each other as well as conduct bidding and auctioning on projects. The bidding and auctioning can occur via email.).

As per claim **35**, *Joao* discloses the system of claim 19, wherein the analysis function comprises: automatically performing an analysis of at least one report based upon criteria selected by a participant and receiving a change of at least one attribute based upon a review of the analysis by the participant (col. 22, lines 42-53; col. 25, line 66-co1.26, line 10; The system provides reports to both, contractors seeking jobs, as well as employers seeking contractors. Contractors and employers can update/revise their searches to achieve different results.).

As per claim **36**, *Joao* discloses the system of claim 19, wherein the hosted network application is hosted on the Internet (col. 13, lines 23-34).

As per claim **58**, *Joao* does not expressly disclose the system of claim 19, wherein the work journal function further comprises a work journal approval function that receives a review of the work performed by the hired contractor. *Knudson* discloses the

work journal approval function receiving a review of the work performed by the hired contractor (col. 7, lines 18-25). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of *Joao* to have a work journal approval function that receives a review of the work performed by the hired contractor because doing so would provide employers with contractors' performance information, thereby enabling employers to make more informed decisions with more criteria when they search for potential contractors for project work as previous work performance is a common criteria used when making hiring decisions.

As per claim **59**, *Joao* discloses the system of claim 19, wherein the search function comprises: performing a search for a contingent position based upon criteria entered by a contractor, wherein the contingent position is associated with a project (col. 11, lines 45-67; col. 20, lines 53-63; col. 24, lines 37-49; col. 32, lines 30-38 and 47-51 ; Contractors search for contingent positions, in that the positions are conditional upon meeting the hiring requirements of the employer seeking to hire a contractor for a particular project.).

As per claim **61**, *Joao* discloses the system of claim 19, further comprising a digital portfolio function including: populating a first of a plurality of digital portfolios, each for a different contractor, with data extracted from an electronic resume and populating a second of the plurality of digital portfolios with data from systems external to the hosted network application (col. 22, lines 13-20; col. 23, lines 44-52; Digital portfolios for each contractor are populated from resume data as well as from answers submitted via a questionnaire by the contractor (i.e., external to the application).

Contractors may also upload additional data such as transcripts and work samples, not part of a resume (i.e., external to the application).

Claims **41-57, 60 and 62-70** recite substantially similar subject matter as claims 19-22, 25-27, 30, 33, 35-36, 58-59 and 61 above. Therefore, claims 41-57, 60 and 62-70 are rejected on the same basis as claims 19-22, 25-27, 30, 33, 35-36, 58-59 and 61 above.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Roy et al. (US 7,191,138) disclose a system for cataloging, inventorying, selecting, measuring, valuing, and matching skills with a skill requirement.

Rosenthal et al. (US 7,054,821) disclose a system for modeling skills of employees and keeping that model current.

Firestone (US 7,043,443) discloses a method for matching potential employees and potential employers, using skills.

Dietz et al. (US 6,408,337) disclose a method of assisting an organization in managing the engagement of contract workers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Saindon whose telephone number is (571) 270-3026. The examiner can normally be reached on M-F 7:30-5; alt. Fridays off.

Art Unit: 3623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVS

*Romain Leanty*  
*Primary Examiner*  
*Art Unit 3623*